

Partial Business and Regulatory Impact Assessment

Title of Proposal

The Scottish Road Works Register (Prescribed Fees) Regulations 2017

Purpose and intended effect

- **Background**

The New Roads and Street Works Act 1991 enables Scottish Ministers to provide, by Regulation, that a payment is made to the Scottish Road Works Commissioner for access to the Scottish Road Works Register (“the register”).

These regulations set the levels of prescribed fees and amounts that can be levied as a charge to those accessing the register. The register is a central tool for road works authorities and utility companies to use to assist them in the planning and coordination of works on Scottish roads. Roads authorities and utility companies (the latter group are commonly referred to as “statutory undertakers” in the legislation) have a duty to submit information relating to road works in the form of notices placed onto the register.

- **Objective**

The Regulation will change the overall fee figure used in the formula to calculate the proportion of the cost of providing the register to be paid by individual roads authorities and statutory undertakers.

The fee is calculated using a series of formulas that share the cost of running the register annually between the roads authorities (who between them bear 35% of the cost) and the undertakers (who make up the remaining 65%).

The purpose of consulting on this partial regulatory impact assessment is to propose an increase in the fee for 2017 and 2018.

- **Rationale for Government intervention**

The fees are designed to cover the cost of operating and maintaining the register. The fee is calculated using a series of formulas that share the cost of running the register annually between the roads authorities and utilities on the basis of a 35% / 65% split. This formula was developed and agreed by the road users community through the Road Authorities and Utilities Committee (Scotland) (“RAUC(S)”). The fee is calculated based on activity in the previous year taking account of anticipated costs of running and providing the service of the register.

The coordination of road works through the use of the register helps meet the following strategic objectives within the National Performance Framework:-

- We live in well-designed, sustainable places where we are able to access the amenities and services we need;

- We value and enjoy our built and natural environment and protect it and enhance it for future generations; and
- Our public services are high quality, continually improving, efficient and responsive to local people's needs.

Consultation

- **Within Government**

The proposals do not impact on any other part of Scottish Government. However, the Scottish Road Works Commissioner (SRWC), an independent public body, will be consulted and this section will be updated post-consultation.

- **Public Consultation**

A 10 public week consultation will take place between 3 November 2016 and 12 January 2017

- **Business**

The parties affected by the change (roads authorities and utility companies) will be informed directly by email when the consultation launches. We have tasked the Road Authorities and Utility Companies (Scotland) (RAUC(S) to consider and propose alternative methods for calculation of the prescribed fee.

Options

Option 1 - Do Nothing i.e. leave the fees at their current level

Option 2 - Amend the current arrangements in line with the projected cost of running the Scottish Road Works Register.

Sectors and groups affected

Option 1 –

Option 2 - Roads authorities and utility companies

Benefits

Option 1 –

Option 2 - Setting the fee at the appropriate level ensures that the cost of providing the Register is fully covered.

Costs

Option 1 –

Option 2 –

If the prescribed fee not monitored and set at the appropriate level and varied where required there is a risk on the one hand, that the cost of providing the register will not be recovered, and on the other, that roads authorities and statutory undertakers may pay more money than they otherwise might be required to pay.

Any change made under option 2 will only impact on utility companies and roads authorities. At this stage we are not aware of what any potential costs might be.

The results produced by the working group and the consultation will help inform what the likely costs associated with any change will be and this section of the BRIA will be updated then.

Option 1 - No additional cost to business.

Option 2 – Any additional cost in running the register will be apportioned between the roads authorities and utility companies.

Scottish Firms Impact Test Face to face discussions will be taking place within the auspices of the working group which has been set up involving both representatives of the road authorities and utility companies. These discussions will those affected help inform decisions on whether the current fee needs to be changed. Since all businesses affected are represented on the working group we feel it would be disproportionate to carry out further face to face interviews. This section of the BRIA will be finalised post-consultation.

Competition Assessment

We will use the Competition & Markets Authority Competition Filter questions to assess the competition impacts of any proposals. If we are able to answer these in the negative we will be able to assert that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously. This section will be finalised post-consultation.

Test run of business forms

We do not anticipate that any new business forms will be created but will complete this section post-consultation.

Legal Aid Impact Test

We do not anticipate that any proposals which may emerge as a result of the consultation will impact on legal aid but will consult with the Scottish Government Access to Justice Team and update this section with their response post-consultation.

Enforcement, sanctions and monitoring

The Scottish Road Works Commissioner is responsible for the collection of fees set under these regulations. One of the issues raised by the Commissioner is whether specific debt recovery mechanisms are required to deal with outstanding fees from earlier years. This issue will be explored during the consultation and this section will be updated accordingly at Final BRIA stage.

Implementation and delivery plan

Any new Regulations will come into force on 1 April 2017.

- **Post-implementation review**
The fees will be reviewed in 2018.

Summary and recommendation

This section will be completed post-consultation.

- **Summary costs and benefits table**
A summary costs and benefits table will be completed post-consultation.

Declaration and publication

I have read the impact assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact will be assessed with the support of businesses in Scotland.

Signed:

HUMZA YOUSAF

Date: 1 November 2016

**Humza Yousaf
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